

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE**

<b>PATRICK EVANS, individually and on</b>	)	
<b>behalf of others similarly situated,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No. 3:18-cv-00055</b>
	)	<b>Case No. 3:17-cv-01281, consolidated</b>
<b>v.</b>	)	
	)	<b>JUDGE WILLIAM L. CAMPBELL</b>
<b>OLIVINA NAPA VALLEY, LLC,</b>	)	
	)	<b>MAGISTRATE JUDGE ALISTAIR</b>
	)	<b>NEWBERN</b>
<b>Defendant.</b>	)	

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**DEFENDANT OLIVINA NAPA VALLEY, LLC’S MOTION TO DISMISS CLASS  
ACTION COMPLAINT AND/OR, IN THE ALTERNATIVE, TO STAY ACTION**

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Defendant Olivina Napa Valley, LLC (“Olivina”) respectfully moves the Court: (1) pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss Plaintiff’s Class Action Complaint (the “Complaint”) because the label on Defendants’ products expressly discloses all the ingredients contained therein, and, as a matter of law, no reasonable consumer could be misled or deceived by the Products’ labeling; and/or (2) to stay Plaintiff’s Class Action Complaint pursuant to the doctrine of primary jurisdiction, as the Food and Drug Administration (“FDA”) has initiated the formal regulatory process to determine the appropriate use of the term “natural” on cosmetics labeling, and has stated that it will soon provide guidance to the Court on the meaning of the term “natural” in this context; and (3) to dismiss Plaintiff’s claims under the Tennessee Consumer Protection Act, because the statute expressly excludes civil class action lawsuits. In support of the Motion, Olivina relies upon its Memorandum of Law and supporting authorities filed contemporaneously herewith.

Respectfully Submitted,

/s/ Lauren Kilgore

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## **CERTIFICATE OF SERVICE**

I, Lauren Kilgore, hereby certify that on this March 15, 2018, a copy of the foregoing pleading was filed electronically with this Court. Notice of this filing will be sent by operation of the Court's Electronic Filing System to the following counsel of record:

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